

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 12-11290-RWZ

DAYSE FIGUEROA

v.

FEDERAL NATIONAL MORTGAGE ASSOCIATION

ORDER

July 16, 2013

ZOBEL, D.J.

After rulings on defendants' motions to dismiss and plaintiff's motions to amend the complaint, one claim against one defendant, Federal National Mortgage Association ("Fannie Mae") remained. That claim, Count II, asserts that the foreclosure sale was improperly conducted by one Karen Ferro, a representative of Orlans Moran PLLC, the entity granted a power of attorney by Fannie Mae, because Orlans Moran had failed to properly authorize Ferro to carry out the foreclosure. I denied the motions to dismiss this count because the facts pleaded raised a plausible inference of lack of authority. Fannie Mae has now submitted a statement (Docket #36) in which it points out that a mortgagee has available two separate remedies, foreclosure by sale and foreclosure by entry. It also provides evidence in its supporting documents that Ms. Ferro was authorized to make entry upon the premises and did bid on behalf of Fannie Mae. However, Fannie Mae retained Towne Auctions as the auctioneer and the latter's

representative, Daniela Afonso, a licensed auctioneer, conducted the sale of plaintiff's premises. Plaintiff has provided no evidence to rebut defendant's description of the role of Ms. Ferro. Since the record is now clear that the foreclosure sale was conducted in accordance with the terms of the mortgage and the governing law, defendant's motion to dismiss is allowed as to Count II.

Accordingly, judgment may be entered dismissing the complaint in its entirety.

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July 16, 2013

DATE

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/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE